



**IN THE COURT OF THE PRL CIVIL JUDGE & JMFC.,**

**SAKALESH PURA**

**-.PRESENT:-**

**Sri. Lakshmi Narasimha R.V. B.A.L., LL.B.,**

Prl. Civil Judge & JMFC., Sakaleshpura.

**Dated this the 16<sup>th</sup> day of June, 2026**

**O.S. NO.39/2026**

**PLAINTIFF** : Abdul Wazid

**V/s.**

**DEFENDANTS** : Chief Officer, Town Municipality,  
Sakaleshpura and another

**I.A. No.II**

**Plaintiff/Applicant** : Abdul Wazid

**V/s.**

**Defendants/Opponents** : Chief Officer, Town Municipality,  
Sakaleshpura and another



**ORDERS ON APPLICATION FILED BY THE PLAINTIFF**  
**UNDER ORDER XXXIX RULE 1 AND 2 OF C.P.C.**

The plaintiff has filed this application under order XXXIX Rule 1 and 2 of CPC praying this court to pass an order of an ad-interim temporary injunction restraining defendant No.1, their agents, men or anybody claiming through them from evicting the suit schedule shop till the disposal of the suit.

2. In the affidavit annexed along with the application, the plaintiff has averred that, he has filed the present suit for the relief of permanent injunction in respect of suit schedule property. The suit schedule property is belonging to defendant No.2 and the plaintiff is in possession of the same since 50 years as tenant on basis of rent of Rs.1,000/- per month. He is being paid the rent to defendant No.2. The plaintiff is carrying out bike repair works in the suit schedule premises by obtaining license from defendant No.1. There is an oral rental agreement between the plaintiff and defendant No.2. That on 24.02.2026, defendant No.1 without any notice, came to the suit schedule property and directed the plaintiff to vacate the



premises and failing which, they would demolish the structure. Defendant No.1 has never issued any notice in favour of the plaintiff, which is in violation of principles of natural justice. If the plaintiff is dispossessed from the suit schedule premises, he would come to streets as he has no any source of income for his livelihood. Hence, the plaintiff cannot be evicted without due process of law. The plaintiff is in settled possession of the suit schedule property. The plaintiff has got prima-facie case and balance of convenience in his favour. If the application is not allowed, he will be put to irreparable loss and injury. Hence prayed to allow the application.

**3.** Upon the service of summons, the defendants have appeared before the court through their respective counsel and filed written statement cum objections to the application by denying the averments in toto. It is the contention of defendant No.1 that they have not issued any any business license or executed any agreement in favour of the plaintiff. The plaintiff is running the business on the Ashoka Road- Kushalanagar road illegally. Due to which the public at large are facing the



problems to make ingress and outgress There is a Dr. Ambedkar Bhavan belonging to the government and more gathering would happen on account of programs, marriage and other ceremonies. Due to illegal shops on the road, it is creating ruckus to reach the Bhavan. It is not true that the schedule premises is belonging to defendant No.2 and the plaintiff is in possession of the same as tenant. Defendant No.1 has never threatened the plaintiff to vacate the schedule premises. They have followed all the sue process of law. Now, the plaintiff has filed this suit without any cause of action. Accordingly, prayed to dismiss the application.

4. It is the contention of defendant No.2 that the plaintiff is not the tenant under him at any point in time. He has never rented out the schedule premises in favour of the plaintiff. The Land bearing Sy No.27/2, measuring 21 guntas is belonging to defendant No.2. That on 05.01.2008, the Deputy Commissioner, Hassan converted the same for non agricultural purpose vide order dated 29.01.2009. Accordingly, the Planning authority has also issued Sketch. As per the same



the land measuring 12 meters (40 feet) has been acquired for the purpose of public Sakaleshpura-Kushalnagar road. Hence, the suit schedule premises if the government property belonging to defendant No.1. The plaintiff has no any right over the said property. The plaintiff is carrying out the business illegally without any license from the competent authority. Due to the same, the public at large are facing real problem in making ingress and outgress to reach the places and Dr. Ambedkar Bhavan. Accordingly, prayed to dismiss the application.

**5.** On basis of the application, plaint, written statement and documents on record, the following points that arise for the determination of this court.

- 1.** Whether the plaintiff has made out prima-facie case in his favour?
- 2.** Whether the balance of convenience lies in favour of the plaintiff?



**3.** Whether the plaintiff will be put to great hardship and irreparable loss if, order of temporary injunction is not granted?

**4.** What order?

**6.** Heard arguments. Perused the application, affidavit, objections and records placed before this court. The learned counsel for the plaintiff has relied upon the following decisions:

a. AIR 2004 SC 4609

b. AIR 1989 SC 2097

The learned counsel for defendant No.2 has relied upon the following decisions:

a. 2024(4) KCCR 3803

b. RSA NO.94/2017 dated 16.05.2017 of Hon'ble High Court of Himachal Pradesh.

**7.** My finding on above points are as follows:-



**Point No.1 :** In the *Negative*

**Point No.2 :** In the *Negative*

**Point No.3 :** In the *Negative*

**Point No.4:** As per the final order for the  
following

**::REASONS::**

**8. Point No.1 to 3 :** Since these points are inter connected with each other, they are taken together for the discussion in order to avoid the repetition of the facts and circumstances.

**9.** The plaintiff has filed the present suit for the relief of permanent injunction in respect of suit schedule property. The plaintiff has contended that he is the tenant under defendant No.2 and paying rent of Rs.1,000,- per month. On the other hand, defendant No.2 has categorically denied the said fact and contended that by virtue of conversion of the land bearing Sy No.27/2, the land to an extent of 40 feet has been acquired for the purpose of road. The suit schedule premises is



a road area and belonging to defendant No.1. At this stage, though the plaintiff has contended that there was an oral rental agreement, there are no any materials to substantiate the contention of the plaintiff.

**10.** Further at the other end, the plaintiff has taken a contention that he is in settled possession of the suit schedule property since 50 years by carrying out the business. It is to note here that the plaintiff has contended that he is the tenant under defendant No.2. Under such circumstances, he cannot take the contention that he is in settled possession. Both the doctrines are contrary to each other. Hence, at this stage, it appears that the plaintiff has not clarified as to under what manner he is in possession of the suit schedule property. It appears from the pleading that the plaintiff is trying to blow hot and cold at the same time.

**11.** Further the learned counsel for the plaintiff has relied upon the decision of the Hon'ble Supreme Court of India stated supra and contended that, it is the settled possession of



effective possession of a person without title which would entitle him to protect his possession even as against the true owner and submitted that the plaintiff cannot be evicted from the suit schedule property. As stated supra, at one stretch, the plaintiff has taken a contention that he is the tenant under defendant No.2 and on the other stretch, he has contended that he is in settled possession of the suit schedule property. Hence, the plaintiff has not specified as to in what manner he is in possession of the property.

**12.** Further, at the time of arguments the learned counsel for defendant No.2 has relied upon the decision of Hon'ble High Court of Karnataka, wherein it is held that "even construction put up by the respondent is subsequent to the acquisition and act of respondent/plaintiff cannot be protected by excising the discretion granting an order of temporary injunction". On perusal of the conversion order of Deputy Commissioner, Hassan and the sketch, it appears on prima-facie that the alleged suit schedule property has been left for the public road and the same is belonging to the government.



The license produced by the plaintiff goes to show that as on the date of suit, there is no any license.

**13.** Further, the plaintiff has contended that on 24.02.2026, defendant No.1 officials have come to the property and given time till 05.03.2026 to vacate the premises. Hence, it appears that they have given notice period. If the plaintiff possess any document, they at liberty to urge their rights. At the time of arguments. The learned counsel for defendant No.1 has argued that the notice has been served to the plaintiff. On the other hand, the plaintiff has not denied the said facts. However, it is also made clear that defendant No.1 is to follow due due process of law. Hence, by looking into all the aspects, at this stage, the plaintiff has not made out prima-facie case and balance of convenience in his favour.

**14.** Moreover at this stage the plaintiff has not produced any documents to show that whether he is in possession as tenant or in settled possession. At this stage, if the application is allowed, it is the defendants as well as public



at large would put to huge loss and injury than in comparison with the plaintiff. Accordingly Point No.1 to 3 are answered in the *Negative*.

**15. Point No.4::** For the above discussed reasons, this court proceeds to pass the following:

**::ORDER::**

Application No.II filed by the plaintiff under order XXXIX Rule 1 and 2 of C.P.C. is hereby dismissed.

No order as to costs.

[Dictated to the stenographer directly on computer and then corrected by me and thereafter pronounced in the open court on this the 16<sup>th</sup> day of June, 2026]

[Lakshmi Narasimha R.V,  
Prl. Civil Judge and JMFC,  
Sakaleshpura.